

EXHIBIT 12

Page 1

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

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SECURITIES INVESTOR PROTECTION

CORPORATION,

Plaintiff-Applicant,

-against-

Adv. Pro. No.

BERNARD L. MADOFF INVESTMENT

08-01789(SMB)

SECURITIES LLC,

SIPA LIQUIDATION

Defendants.

CAPTION CONTINUED

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VIDEOTAPED DEPOSITION OF:

PHILIP F. PALMEDO, Ph.D.

Wednesday, June 21, 2017

New York, New York

11:43 a.m. - 1:10 p.m.

Reported in stenotype by:

Rich Germosen,

CCR, CRCR, CRR, RMR, NYACR, NYRCR

NCRA/NJ/NY/CA Certified Realtime Reporter

NCRA Realtime Systems Administrator

Job No. 206468

BENDISH REPORTING

877.404.2193

1 -----x

2 ***CAPTION CONTINUED***

3 In re:

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5 BARNARD L. MADOFF,

6

7 Debtor.

8 -----x

9 IRVING H. PICARD, TRUSTEE FOR THE

10 LIQUIDATION OF BERNARD L. MADOFF

11 INVESTMENT SECURITIES LLC

12 Plaintiff,

13 -against-

Adv. Pro. No.

14 PHILIP F. PALMEDO

10-04749 (smb)

15 SECURITIES LLC,

16 Defendant.

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1 VIDEOTAPED DEPOSITION of PHILIP F. PALMEDO,
2 Ph.D., taken in the above-entitled matter before RICH
3 GERMSEN, Certified Court Reporter, (License No.
4 30XI00184700), Certified Realtime Court Reporter-NJ,
5 (License No. 30XR00016800), NCRA/NY/CA Certified
6 Realtime Reporter, NCRA Registered Merit Reporter, New
7 York Association Certified Reporter, NCRA Realtime
8 Systems Administrator, taken at the offices of BAKER &
9 HOSTETLER, LLP, 45 Rockefeller Plaza, New York, New York
10 10111, on Wednesday, June 21, 2017, commencing at
11 11:43 a.m.

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1 A P P E A R A N C E S:

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7 New York, New York 10022

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11

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14 -and-

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22 Substantively Consolidated SIPA Liquidation of

23 Bernard L. Madoff Investment Securities LLC and the

24 Estate of Bernard L. Madoff

25

1 A P P E A R A N C E S: (CONT'D.)

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3

4 ALSO PRESENT:

5 ROBERT BEHRENS, Legal Video Specialist

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1 I N D E X

2 WITNESS EXAMINATION

3 PHILIP F. PALMEDO, Ph.D.

4 BY MR. GENTILE 12

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8 E X H I B I T S

9 EXHIBIT NO. DESCRIPTION PAGE

10 Exhibit 1 document entitled Litigation 14
11 Protective Order

12

13 Exhibit 2 document bearing Bates stamp 23
14 Palmedo 18

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16 Exhibit 3 document bearing Bates stamp 25
17 Palmedo 22

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19 Exhibit 4 document bearing Bates stamp 26
20 Palmedo 20

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22 Exhibit 5 document bearing Bates stamps 28
23 JPM Palmedo 30 through 37

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21	by BENDISH REPORTING to BAKER & HOSTETLER, LLP		
22	(exhibit index concluded)		
23			
24			
25			

1 IT IS HEREBY STIPULATED AND AGREED, by
2 and between the attorneys for the respective parties
3 herein, that filing and sealing be and the same are
4 hereby waived.

5 IT IS FURTHER STIPULATED AND AGREED
6 that all objections, except as to the form of the
7 question, shall be preserved to the time of trial.

8 IT IS FURTHER STIPULATED AND AGREED
9 that the within deposition may be signed and sworn
10 to before any officer authorized to administer an
11 oath, with the same force and effect as if signed
12 and sworn to before the officer before whom the
13 within deposition was taken.

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2 P R O C E E D I N G S

3 11:43 a.m.

4 New York, New York

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6 THE VIDEOGRAPHER: Stand by, please.

7 Good morning. We are now on the
8 record. Today is Wednesday, June 21, 2017, and the
9 time is 11:43 a.m. My name is Robert Behrens. I am
10 the video technician in association with Bendish
11 Reporting. This deposition is being held at the
12 office of Baker & Hostetler, located at 45
13 Rockefeller Plaza, 14th floor, New York, New York.

14 The caption of this case is Picard
15 versus Palmedo, filed in the United States
16 Bankruptcy Court, Southern District of New York,
17 adversary proceeding number 08-01789(SMB). The name
18 of the witness is Philip F. Palmedo.

19 At this time the attorneys present
20 will identify themselves and the parties they
21 represent and then the court reporter, Rich
22 Germosen, will swear in the witness.

23 MR. GENTILE: Dominic Gentile from
24 Baker & Hostetler representing the plaintiff, Irving
25 Picard, the trustee.

1 MR. BECKERLEGGE: Robert Beckerlegge
2 for the trustee.

3 MS. ALLIM: Jennifer Allim, Chaitman
4 LLP for the witness, Mr. Palmedo.

5 (Whereupon, the court reporter
6 administered the oath to the witness.)
7

8 P H I L I P F. P A L M E D O, Ph.D.,
9 4 Piper Lane, St. James, New York 11780, having been
10 first duly sworn or affirmed, was examined and
11 testified as follows:

12 EXAMINATION BY MR. GENTILE:

13 BY MR. GENTILE:

14 Q. Good morning, Mr. Palmedo. My name
15 is Dominic Gentile. I'll be taking your deposition
16 today along with my colleague, Robertson
17 Beckerlegge.

18 I'm going to be asking you a series
19 of questions. If at any time I ask you a question
20 that you don't understand, please let me know and
21 I'll do my best to rephrase the question.

22 Although no judge is present here,
23 this is a formal legal proceeding just like
24 testifying in court, and you're under the same legal
25 obligation to tell the truth.

1 The court reporter will be taking
2 down my questions and your responses. They must be
3 audible, so please respond audibly as opposed to
4 shaking your head or shrugging your shoulders.

5 If there are objections, your counsel
6 will object to certain questions or may object to
7 certain questions, but unless your counsel directs
8 you not to answer, you have to answer the question.

9 If you need a break at any time,
10 please let us know. The only thing I ask is that if
11 there is a question still out there, finish
12 answering the question and we can take a break.

13 Before we begin, are you taking any
14 medication that may impair your ability to testify
15 today?

16 A. No.

17 Q. Okay. I believe your counsel has
18 indicated that you won't be -- will not be signing
19 the litigation protective order that governs
20 confidential documents and materials in this action.
21 So please bear with me for a minute. I'm going to
22 read a portion of the litigation protective order
23 into the record.

24 MR. GENTILE: Mark this as exhibit
25 one.

1 (Whereupon, document entitled
2 Litigation Protective Order, is received and marked
3 as Exhibit 1 for Identification.

4 COURT REPORTER: Number one.

5 BY MR. GENTILE:

6 Q. Mr. Palmedo, that's the litigation
7 protective order that was signed by Judge Lifland.
8 The order controls whether exhibits, documents and
9 testimony given in these proceedings will be treated
10 as confidential, meaning that we can't disclose it
11 without notifying the party that produced it to us.

12 I'm going to read select sections of
13 the order, specifically paragraph 10.
14 Unfortunately, the document isn't -- the pages
15 aren't numbered so.

16 A. Okay.

17 Q. So the first sentence of paragraph
18 10: Confidential material shall not be given,
19 shown, made available, or communicated in any way to
20 any person or entity other than the following.

21 The next page, I'm going to go down
22 to paragraph small F: A witness at any deposition
23 in the actions or rule 2004 examination. And then
24 go to the following page, subparagraph Roman Numeral
25 IV: All witnesses and their counsel shall be

1 provided with a copy of this order and shall
2 thereafter be bound by this order. Counsel taking
3 the deposition or rule 2004 examination shall
4 designate all portions of the transcript relating to
5 the confidential material as confidential.

6 That's it.

7 Do you understand that you're being
8 deposed in connection with Picard v. Palmedo,
9 adversary proceeding number 1004749?

10 A. Yes.

11 Q. Can you please state your full name
12 for the record.

13 A. Philip Franklin Palmedo.

14 Q. Okay. And your current home address,
15 sir?

16 A. 5 Piper Lane, Saint James, New York
17 11780.

18 Q. And your occupation?

19 A. I'm retired.

20 Q. Okay. Congratulations.

21 Your educational history and
22 employment history if you don't mind?

23 A. Undergraduate from Williams College.

24 A master's and Ph.D. from MIT. I worked at

25 Brookhaven National Laboratory. I left there to

1 start my own company eventually named International
2 Resources Group.

3 I headed the Long Island Research
4 Institute, and in most recent years I've been a
5 writer.

6 Q. Okay. Thank you.

7 Did you take any steps to prepare for
8 the deposition today?

9 A. I talked to counsel.

10 Q. Okay.

11 A. And that's all.

12 Q. Okay. So other than counsel, did you
13 speak to anybody about this deposition?

14 A. No.

15 Q. Okay. Did you review any documents
16 or any materials in preparation for the deposition?

17 A. Did I what?

18 Q. Review any documents or any other
19 materials?

20 A. Just a memo sent to me by my counsel.

21 Q. Okay. Have you ever had your
22 deposition taken before?

23 A. Yes.

24 Q. Okay. Could you tell me when?

25 A. It was about year and a half ago, two

1 years ago in connection with a frivolous suit
2 against a company on which I'm on the board.

3 Q. Okay. Have you had -- have you given
4 any testimony or been interviewed in connection with
5 the Madoff fraud?

6 A. No.

7 Q. Okay. So to aid our conversation
8 going forward, I'm just going to define a few terms
9 up front so that we each know what each other is
10 talking about or that actually you know what I'm
11 talking about.

12 So when I refer to BLMIS, I'm talking
13 about Bernard L. Madoff Investment Securities LLC,
14 the company. When I refer to Madoff, I'm speaking
15 about Bernard Madoff the person. When I use the
16 term account, I'm speaking about your account with
17 BLMIS. And when I use the term transfer, I'm
18 speaking about deposits you made into that BLMIS
19 account and withdrawals you made from the BLMIS
20 account. Okay.

21 When did you first hear about Bernard
22 Madoff?

23 A. I think it was maybe 19 -- either the
24 end of 1990 or early '91, roughly that period.

25 Q. Okay. What were the circumstances?

1 How did you come to learn about him?

2 A. Friend of mine told me that a
3 relative of his had heard about Madoff and it looked
4 interesting.

5 Q. What was it exactly that made it
6 sound interesting?

7 A. As an investment vehicle.

8 Q. Okay. Do you remember what the
9 description was of the investment vehicle?

10 A. Only that it was a quantitative
11 investment --

12 Q. Okay.

13 A. -- method.

14 Q. Was that different from investment
15 strategies that you had experience with prior to
16 that?

17 A. Not entirely.

18 Q. Okay. How actively did you
19 investigate his investment strategy?

20 A. We went in to visit Madoff.

21 Q. Okay.

22 A. It's Madoff, I'll define that term as
23 the firm.

24 Q. The firm. Okay.

25 A. And had a description by Mr. Cohn.

1 Q. I'm sorry, Mr. Who?

2 A. Sonny Cohn.

3 Q. Sonny Cohn.

4 A. And I didn't -- I mean, it was a, you
5 know, popular description of what they were doing
6 and that's it.

7 Q. Did Mr. Cohn provide the description
8 of --

9 A. Yes.

10 Q. He did. Is he a friend of yours
11 or --

12 A. No, no, no.

13 Q. No?

14 A. He's in the firm. He was in the
15 firm.

16 Q. No, I do know that, but I'm just
17 wondering what his relationship was to you?

18 A. No, no, first time I met him was when
19 I went to visit the firm.

20 Q. Okay. Who was the person who brought
21 you to BLMIS? Who introduced you?

22 A. The person who said it could be
23 interesting was Jim Simons.

24 Q. Okay. And who is Mr. Simons? Is he
25 an investment advisor or financial advisor?

1 A. He heads an investment company or
2 headed an investment company at that time.

3 Q. Okay. So who did you speak with when
4 you visited BLMIS?

5 A. Sonny Cohn and maybe other people,
6 but I know I spoke to him.

7 Q. Okay. Mr. Simons, what company did
8 he --

9 A. Renaissance Technologies.

10 Q. Okay.

11 A. It wasn't called that at the time,
12 but that's what it's called now.

13 Q. Okay. And did you invest with him --
14 did you have other investments with Mr. Simons other
15 than the Madoff investment?

16 A. Yeah, yes. I invested in his
17 company.

18 Q. In his company. So --

19 A. Or not -- I invested through his
20 company.

21 Q. Okay. Were all of your personal
22 investments conducted through Mr. Simons?

23 A. No.

24 Q. Or his company?

25 A. No, no.

1 Q. No? Okay.

2 Was Mr. Simons with you when you were
3 at -- was Mr. Simons with you when you were at
4 BLMIS?

5 A. No, the answer is no.

6 Q. Okay. Were you alone when you
7 visited BLMIS?

8 A. No. This was also recommended to the
9 Stony Brook Foundation, and I was on the board of
10 the Stony Brook Foundation, and I believe that
11 another member of the board was with me, and it may
12 have been Evelyn Berezin, but I can't -- I'm not
13 sure about that.

14 Q. Sorry, Evelyn?

15 A. Berezin, B-e-r-e-z-i-n.

16 Q. Okay. Do you know if she invested
17 with Madoff?

18 A. I -- I believe so.

19 Q. Okay. Did you meet Bernard Madoff
20 while you were there?

21 A. I don't think so.

22 Q. Okay. You're not sure?

23 A. I'm not sure.

24 Q. Okay. Did you receive any materials
25 from BLMIS during your visit that helped you -- that

1 informed your decision on whether or not to invest?

2 A. I don't recall.

3 Q. Okay. Did your visit to BLMIS
4 influence your decision to invest with --

5 A. Yes.

6 Q. It did? Okay.

7 What was your impression of the
8 operation overall?

9 A. My impression was obviously
10 incorrect. It looked like an upstanding proper
11 investment company, and I was impressed by the fact
12 that maybe I was naive in accepting this, but I
13 believe it was true in those days, that the
14 principals were investing their money in these
15 techniques.

16 Q. Is that something that was
17 communicated to you by Maurice Cohn?

18 A. By Cohn.

19 Q. Is that a yes or --

20 A. Yes.

21 Q. Yes.

22 So was your understanding that
23 Maurice Cohn invested his personal money in Madoff?

24 A. Yes.

25 Q. Okay. When did you actually begin

1 investing in BLMIS?

2 A. You have the records. I think it's
3 '91 was my first investment.

4 Q. Okay. And how much did you invest at
5 that time?

6 A. I think it was \$100,000 was the
7 initial investment.

8 Q. Okay. So if you invested in 1991 and
9 your account lasted until the crash in 2008, who did
10 you communicate with at BLMIS to manage your account
11 if you had questions about it?

12 A. Initially Cohn.

13 Q. Okay.

14 A. And then there were other people -- I
15 mean, I didn't have a lot of communication except to
16 request withdrawals, invest more money. So I didn't
17 have substantive discussions.

18 Q. Okay. So I'm going to introduce --
19 I'm sorry -- a document for you to look at.

20 MR. GENTILE: I'm going to ask the
21 court reporter to mark it as exhibit two.

22 (Whereupon, document bearing Bates
23 stamp Palmedo 18, is received and marked as Exhibit
24 2 for Identification.

25 COURT REPORTER: Number two.

1 MR. GENTILE: Yes. And for the
2 record, it's Bates number Palmedo 18.

3 BY MR. GENTILE:

4 Q. If you could just take a look at the
5 document.

6 A. Right.

7 Q. Okay. Do you recognize the document?

8 A. Yes. I think I do.

9 Q. Okay. So if you scan down to the
10 last paragraph beginning with introducing Belle
11 Jones?

12 A. Right.

13 Q. So does this refresh your
14 recollection about who you would speak to? Did you
15 speak to Belle Jones?

16 A. I don't think I did.

17 Q. You don't think you did? Okay.
18 That's fine.

19 A. This is '92. My memory of exact
20 conversations 21 -- more than 20 years ago is not
21 very good.

22 Q. That's fine.

23 A. And getting worse I might add.

24 Q. So you've testified that you believe
25 your initial investment was \$100,000 originally;

1 right?

2 A. That's my recollection.

3 Q. Okay.

4 MR. GENTILE: I'm going to introduce
5 a document that I'm going to ask the court reporter
6 to mark as exhibit three.

7 (Whereupon, document bearing Bates
8 stamp Palmedo 22, is received and marked as Exhibit
9 3 for Identification.

10 COURT REPORTER: Number three.

11 BY MR. GENTILE:

12 Q. That document bears Bates number
13 Palmedo 22.

14 A. (Reviews.)

15 Q. If you could just read the first
16 paragraph.

17 A. Right.

18 Q. If you could read it out loud into
19 the record.

20 A. Oh. Dear Maurice, as I mentioned to
21 you over the phone --

22 (Reporter clarification.)

23 A. Dear Maurice it's addressed to, all
24 right? As I mentioned to you over the phone, I
25 would like to open a C&M trading account to be

1 managed with your hedged strategies. I enclose a
2 check for \$100,000 made out to C&M.

3 Q. And that's consistent with your
4 recollection?

5 A. Yes.

6 Q. Okay.

7 MR. GENTILE: I'm going to introduce
8 another exhibit that -- another document that I'm
9 going to ask the court reporter to mark as exhibit
10 four bearing Bates number Palmedo 20.

11 (Whereupon, document bearing Bates
12 stamp Palmedo 20, is received and marked as Exhibit
13 4 for Identification.

14 COURT REPORTER: Number four.

15 A. Do you want me to read this?

16 BY MR. GENTILE:

17 Q. You can read the first paragraph,
18 yes, please.

19 A. This is from Cohmad Securities to me.
20 This will acknowledge receipt of your check in the
21 amount of hundred thousand dollars, which will be
22 deposited today in an interim money market fund
23 until July 1, '91 when it will be transferred into
24 our C&M trading account number 19.

25 Q. Who is it signed by?

1 A. Signed by Maurice J. Cohn.

2 Q. And the date of the letter?

3 A. June 19, 991.

4 Q. Okay. So, again, it's consistent
5 with your recollection of your initial investment
6 being \$100,000?

7 A. Yes, right.

8 Q. Okay. Over the life of your
9 investment -- investments with BLMIS, did you
10 maintain certain personal bank accounts from which
11 you would deposit money that you received from BLMIS
12 into and withdraw money out of to deposit into
13 BLMIS?

14 A. No special bank account.

15 Q. But did you maintain any bank
16 account?

17 A. Yes.

18 Q. Do you remember what --

19 A. I don't. Probably Chase.

20 Q. Okay. Any others?

21 A. There is no sequence of Long Island
22 banks that every couple of years changed hands,
23 Oysterman's Bank. Then it became North Fork Bank.
24 So there may have been other banks.

25 Q. Okay. But you specifically remember

1 Chase Bank as one of the banks that you would
2 deposit funds into when you received --

3 A. Frankly, I'm not sure when I started
4 my Chase account, so I have no idea what bank
5 account I used for these.

6 Q. Okay.

7 A. Again, 20 years ago.

8 MR. GENTILE: So I'm going to
9 introduce a document bearing Bates number JPM
10 Palmedo 30.

11 I'm going to ask the court reporter
12 to mark it as exhibit five.

13 MR. BECKERLEGGE: You should say the
14 range.

15 MR. GENTILE: Oh, you're right. So
16 it bears Bates number JPM Palmedo 30 to JPM Palmedo
17 37.

18 (Whereupon, document bearing Bates
19 stamps JPM Palmedo 30 through 37, is received and
20 marked as Exhibit 5 for Identification.

21 COURT REPORTER: Number five.

22 BY MR. GENTILE:

23 Q. Could you take a look at the document
24 for a few minutes and tell me what it is?

25 A. This is a Chase balance summary

1 ostensibly of my account.

2 Q. Well, when you say ostensibly, who
3 was the account holder on record?

4 A. It's Philip F. Palmedo.

5 Q. Okay. Do you have any reason to
6 believe that this isn't a --

7 A. No.

8 Q. -- an account statement from your
9 Chase account?

10 A. No. I've just never seen it I don't
11 think.

12 Q. Okay. Can you take a look at the
13 primary account number on the top right?

14 A. Yeah.

15 Q. Does that account number look
16 familiar to you?

17 A. I don't know.

18 Q. Okay.

19 A. It probably is.

20 Q. All right. We'll come back to that
21 later.

22 A. Yeah. These are checks that I wrote.

23 Q. Okay. So that's an accurate
24 representation of a Chase Bank statement for your
25 account at Chase Bank?

1 A. Right.

2 Q. Okay. So the --

3 A. What is this, 2008? I can't really
4 read it.

5 Q. It says: May 1, 2008 through May 30,
6 2008.

7 A. 2008.

8 Q. Okay.

9 A. Yeah. It looks right.

10 Q. Okay. So the bank accounts that you
11 are describing, including this Chase Bank account,
12 were they owned exclusively by you? Did you share
13 it with your wife or with any family members?

14 A. I've had bank accounts that I share
15 with my wife.

16 Q. Okay.

17 A. I don't think I used that -- those
18 bank accounts for these investments. I can't
19 guarantee that I didn't use that bank account, but
20 generally I used bank accounts only in my name.

21 Q. Only in your name?

22 A. Yeah.

23 Q. So this Chase account is --

24 A. It's only in my name.

25 Q. Only in your name. Okay.

1 So would this be one of the accounts
2 that you would use to receive withdrawals from your
3 BLMIS account and use to take -- make deposits into
4 your BLMIS account?

5 A. Yes.

6 Q. Okay. Did you direct all of the
7 deposits into the BLMIS account and all the
8 withdrawals from the BLMIS account?

9 A. Yes.

10 Q. Okay. So I'm going to move on to --
11 MR. GENTILE: I'm going to introduce
12 a document we've enlarged, so it's a little bit
13 easier to read.

14 A. Okay.

15 MR. GENTILE: I'm going to ask the
16 court reporter to mark as exhibit six.

17 (Whereupon, Trustee's Exhibit B, is
18 received and marked as Exhibit 6 for Identification.

19 COURT REPORTER: Number six.

20 BY MR. GENTILE:

21 Q. Mr. Palmedo, this is the trustee's
22 exhibit B to his complaint, the complaint brought
23 against you in adversary proceeding number 1004749.
24 This lists the trustee's calculations of the
25 deposits into your account and the withdrawals from

1 your account, okay?

2 So what I want to do is, I want to go
3 through each of these transactions that you see
4 listed, beginning with one for 1993, and while we do
5 that, I'm going to hand you documents along with the
6 questions that I'm going to pose to you.

7 So could you please read the first
8 line that's dated 1/4/1993.

9 A. Trans, which not only is transfer
10 from 1C001930 under transaction amount 192,271.

11 Q. Okay. Could you read column six?

12 A. 150,000 --

13 Q. And that's what's --

14 A. -- transfer of principal in.

15 Q. Okay. So this is the trustee's
16 calculation of what he believes the principal amount
17 of your investment with BLMIS was in 1993. Do you
18 remember how much money you invested in your BLMIS
19 account from the time you opened it in 1991, until
20 January 4, 1993?

21 A. No.

22 Q. You don't?

23 Okay. But you've already testified
24 that your initial investment was \$100,000?

25 A. Right.

1 Q. Okay. So I'm going to ask you to
2 look at exhibits three and four again.

3 MR. GENTILE: And I'm going to
4 introduce another document.

5 I'll ask the court reporter to mark
6 it as exhibit eight.

7 MR. BECKERLEGGE: Seven.

8 MR. GENTILE: Seven. I'm sorry.
9 Bears Bates number Palmedo 16.

10 (Whereupon, document bearing Bates
11 stamp Palmedo 16, is received and marked as Exhibit
12 7 for Identification.

13 COURT REPORTER: Number seven.

14 MR. GENTILE: Okay.

15 BY MR. GENTILE:

16 Q. Would you take a look at that, sir.

17 A. (Reviews.)

18 Q. Do you recognize it?

19 A. Yeah.

20 Q. Could you tell me what it is?

21 A. This is a letter from Cohn to me
22 acknowledging receipt of check in the amount of
23 \$50,000, December 9, 1991.

24 Q. Okay. Could you read the middle
25 paragraph, the second --

1 A. Your check will be deposited in a
2 money market fund until January 2, 1992. In the
3 future, please make your check payable to Bernard L.
4 Madoff Investment Securities, not C&M.

5 Q. Okay. So when you look at that
6 document and exhibits three and four reflecting your
7 100,000-dollar initial investment, is it accurate to
8 say that your deposits for 1991 and 1992 amounted to
9 \$150,000?

10 A. \$150,000. You said 250.

11 Q. No, I said 150.

12 A. Yes, 150.

13 Q. Okay. And is that hundred \$50,000
14 reflected in exhibits three, four and seven the same
15 figure as reflected in column six of exhibit six?

16 A. Yes.

17 Q. Okay. Thank you.

18 So could you go to exhibit six and
19 read off the line beginning -- the next line down
20 beginning with 4/1/1993 and just read off --

21 A. 4/1/1993, check 25,000. Cash
22 deposits 25,000.

23 Q. Okay. Do you remember making a
24 deposit of 25,000 in --

25 A. I don't remember, but I'm not

1 surprised.

2 Q. Okay.

3 MR. GENTILE: So I'm going to
4 introduce another document. I'm going to ask the
5 court reporter to mark it as exhibit eight. And
6 this bears Bates number Palmedo 34.

7 (Whereupon, document bearing Bates
8 stamp Palmedo 34, is received and marked as Exhibit
9 8 for Identification.

10 COURT REPORTER: Number eight.

11 MR. GENTILE: Okay.

12 BY MR. GENTILE:

13 Q. Could you take a look at that
14 document?

15 A. Yes.

16 Q. Do you recognize the document?

17 A. Yes. These are documents that I had
18 in my possession and I have a lousy copying machine,
19 which I see here I provided. So, yes, I recognize
20 this document.

21 Q. Okay. Could you tell me what it is?

22 A. This is the Madoff portfolio
23 management report as of 12/31/93.

24 Q. And is this for your BLMIS account?

25 A. Yes.

1 Q. Okay. Could you read the line that
2 says: Capital additions?

3 A. \$25,000.

4 Q. And what are the letters next --

5 A. CR.

6 Q. Ostensibly meaning credit?

7 A. What does that mean?

8 Q. Ostensibly meaning credit?

9 A. Oh, credit.

10 Q. So that's -- this report -- is it
11 accurate to say that this report reflects the amount
12 of additions and withdrawals into and out of your
13 BLMIS account for the year 1993?

14 A. Yes.

15 Q. Okay. Does a figure of \$25,000 next
16 to the capital additions line in this report, is
17 that consistent with the line you just read from
18 exhibit six --

19 A. Yes.

20 Q. -- of \$25,000?

21 A. Yes.

22 Q. Okay. Thank you.

23 I'm going to ask you to go down to
24 the very last line, sir.

25 A. The last line on here?

1 Q. Not the last line. The next line
2 that says: 12/20/1995.

3 A. 12/20/95, check \$50,000. Cash
4 deposits \$50,000.

5 Q. Okay.

6 MR. GENTILE: I'm going to introduce
7 a document that I'm going to ask the court reporter
8 to mark as exhibit nine bearing Bates number Palmedo
9 14.

10 (Whereupon, document bearing Bates
11 stamp Palmedo 14, is received and marked as Exhibit
12 9 for Identification.

13 COURT REPORTER: Number nine.

14 BY MR. GENTILE:

15 Q. If you can take a look at that
16 document, sir.

17 A. Right. This is my letter to -- I
18 call it Cohmad Securities.

19 Q. Who is it addressed to?

20 A. December 16, '95 and a copy -- I was
21 doing a good job at this point, a copy of the check
22 for \$50,000 that I sent at that time.

23 Q. Okay. When you look down at the
24 bottom of the document, that's a check that you made
25 out to Bernard L. Madoff Investment Securities for

1 \$50,000; is that correct?

2 A. That's correct.

3 Q. And is that your signature on the
4 check?

5 A. Yes.

6 Q. Okay. Is the 50,000-dollar figure in
7 this document consistent with the 50,000-dollar
8 deposit made on 12/20/1995 that you read off from
9 exhibit six?

10 A. Yes.

11 Q. Okay. Thank you.

12 MR. GENTILE: I'm going to introduce
13 another document.

14 I'm going to ask the court reporter
15 to mark as exhibit 10 bearing Bates number Palmedo
16 32.

17 (Whereupon, document bearing Bates
18 stamp Palmedo 32, is received and marked as Exhibit
19 10 for Identification.

20 COURT REPORTER: Number 10.

21 MR. GENTILE: Okay.

22 BY MR. GENTILE:

23 Q. If you could take a look at that.

24 A. All right. It's a portfolio
25 management report, 12/31/95.

1 Q. Okay. Could you just read the figure
2 for -- next to capital additions?

3 A. Capital additions, \$50,000 CR.

4 Q. And is this for your account for the
5 year 1993?

6 A. Yes.

7 Q. And is it addressed to you, Philip F.
8 Palmedo?

9 A. Yes.

10 Q. Okay. Thank you.
11 If you can go down to the next line,
12 sir, beginning with 10/21/1998.

13 A. You want me --

14 Q. If you could read it, read the line,
15 yes?

16 A. All right. 10/21/98, check \$60,000.
17 In parentheses, namely negative \$60,000, cash
18 withdrawal under that column \$60,000.

19 Q. Okay. Do you remember making a cash
20 withdrawal in October of 1998 from your BLMIS
21 account?

22 A. I don't remember, but I don't doubt
23 it.

24 Q. Okay.

25 MR. GENTILE: I'm going to introduce

1 a document that I'm going to ask the court reporter
2 to mark as exhibit 11 bearing Bates number
3 AMF245388.

4 (Whereupon, document bearing Bates
5 stamp AMF245388, is received and marked as Exhibit
6 11 for Identification.

7 COURT REPORTER: Number 11.

8 A. Okay. This is a letter from me to
9 Cohmad Securities. I don't know why it was crossed
10 out.

11 BY MR. GENTILE:

12 Q. What was put in its place?

13 A. Not by -- Bernard L. Madoff INV SEC.

14 Q. And the date of the letter?

15 A. October 12, '98.

16 Q. Could you read --

17 A. And it's a request for me to redeem
18 \$60,000 from my trading account.

19 Q. Okay. And who is it signed by?

20 A. Who is it signed by? By me.

21 Q. Okay. That's your signature?

22 A. Yes.

23 Q. Okay. Thank you.

24 (Whereupon, document bearing Bates
25 stamp Palmedo 29, is received and marked as Exhibit

1 12 for Identification.

2 MR. GENTILE: I'm going to introduce
3 a document.

4 I'll ask the court reporter to mark
5 it as exhibit 12 bearing Bates number Palmedo 29.

6 COURT REPORTER: Number 12.

7 A. This is -- I was trying to save paper
8 here. So this is two portfolio management reports.
9 The first one is 12/31/98.

10 BY MR. GENTILE:

11 Q. And it's addressed to who?

12 A. Addressed to me.

13 Q. Could you read the figure next to the
14 capital withdrawals?

15 A. Capital withdrawals, \$60,000.

16 Q. And what's next to the \$60,000 to the
17 right of it?

18 A. Negative.

19 Q. Negative. Okay.

20 Is the \$60,000 reflected in exhibits
21 11 and 12 consistent with the 60,000-dollar
22 withdrawal listed on exhibit six on 10/21/1998?

23 A. Yes.

24 Q. Okay. Thank you.

25 Could you go down to the next line on

1 exhibit six beginning with 4/27/2000 and do the same
2 thing. If you could read --

3 A. Yeah, 4/27/2000, check \$50,000
4 negative. Cash withdrawal \$50,000.

5 Q. Okay. Do you remember making a cash
6 withdrawal from your BLMIS account on April 27,
7 2000?

8 A. I don't remember, but I don't doubt
9 it.

10 Q. Okay.

11 MR. GENTILE: I'm going to introduce
12 a document that I'm going to ask the court reporter
13 to mark as exhibit 13 bearing Bates number
14 AMF245387.

15 (Whereupon, document bearing Bates
16 stamp AMF245387, is received and marked as Exhibit
17 13 for Identification.

18 COURT REPORTER: Number 13.

19 BY MR. GENTILE:

20 Q. Could you tell me --

21 A. This is a letter from me to Cohmad
22 Securities asking to redeem \$50,000, dated April 24,
23 2000.

24 Q. Okay. Is the letter signed by you?

25 A. Yes.

1 Q. Okay.

2 MR. GENTILE: I'm going to introduce
3 another document.

4 I'll ask the court reporter to mark
5 it as exhibit 14 bearing Bates numbers MADWAA48660
6 and 61.

7 (Whereupon, document bearing Bates
8 stamp AMF48660 and 661, is received and marked as
9 Exhibit 14 for Identification.

10 COURT REPORTER: Number 14.

11 BY MR. GENTILE:

12 Q. Can you tell me what that is,
13 Mr. Palmedo?

14 A. This is a check from Bernard L.
15 Madoff, dated 4/27/2000 for \$50,000.

16 Q. Okay. And who is it made out to?

17 A. To me.

18 Q. Okay. And is that 50,000-dollar
19 figure consistent with the withdrawal reflected on
20 exhibit six, the one you read off, 4/27/2000?

21 A. Yes.

22 Q. Okay. Could you just take a look at
23 the back, the second page.

24 A. Yeah.

25 Q. I have to -- so do you know which

1 bank you deposited this into?

2 A. Yeah, that was a joint account.

3 Q. Okay.

4 A. And I'm not -- I don't know what
5 bank. It doesn't say.

6 Q. Can you take a look here on the stamp
7 that says: May 1? It's upside down there, if you
8 turn it.

9 A. Huh?

10 Q. Turn it.

11 A. North Fork Bank, right, that is the
12 bank that kept changing identity. So that was
13 deposited in a joint account at North Fork Bank.

14 Q. And it was joint with who?

15 A. My wife.

16 MR. GENTILE: And I'm going to
17 introduce another document that I'm going to ask the
18 court reporter to mark as exhibit 15 bearing Bates
19 number Palmedo 28.

20 A. I notice this check is from Bernard
21 Madoff.

22 MR. GENTILE: You have to give it to
23 the court reporter.

24 (Whereupon, document bearing Bates
25 stamp Palmedo 28, is received and marked as Exhibit

1 15 for Identification.

2 COURT REPORTER: Number 15.

3 BY MR. GENTILE:

4 Q. Can you tell me what that is, sir?

5 A. This is the -- there are two
6 documents on both of these things; right?

7 Q. Yes.

8 A. Is this the same one as we had
9 before? You want the top or the bottom?

10 Q. The top, please?

11 A. Portfolio management report as of
12 12/31/2000 to me.

13 Q. Okay.

14 A. Capital withdrawals line says \$50,000
15 negative.

16 Q. Okay. And is that a reflection of
17 what you withdrew during the year 2000?

18 A. Right.

19 Q. Okay. Does that 50,000-dollar
20 figure, does that correspond with the 50,000-dollar
21 withdrawal figure you read off from 4/27/2000?

22 A. Yes, yes.

23 Q. Okay. Thank you.

24 If you can go down to the next line
25 on exhibit six.

1 A. 2001, 11/30/2001, check \$50,000.

2 Cash withdrawal \$50,000.

3 Q. Okay.

4 MR. GENTILE: I'm going to introduce
5 a document I'm going to ask the court reporter to
6 mark as exhibit 16 bearing Bates number AMF245386.

7 (Whereupon, document bearing Bates
8 stamp AMF245386, is received and marked as Exhibit
9 16 for Identification.

10 COURT REPORTER: Number 16.

11 BY MR. GENTILE:

12 Q. Could you tell me what that is,
13 Mr. Palmedo?

14 A. This is my letter of November 25,
15 2001 to Cohmad Securities. I'd like to redeem
16 \$50,000 from my C&M trading account, signed by me.

17 Q. Okay.

18 MR. GENTILE: I'm going to introduce
19 another document.

20 I'll ask the court reporter to mark
21 it as exhibit 17 bearing Bates numbers MADWAA73133
22 and 34.

23 (Whereupon, document bearing Bates
24 stamp MADWAA73133 and 34, is received and marked as
25 Exhibit 17 for Identification.

1 COURT REPORTER: Number 17.

2 MR. GENTILE: Okay.

3 BY MR. GENTILE:

4 Q. Could you tell me what that is?

5 A. This is a check from Bernard Madoff
6 for \$50,000, made out to me, 11/30/2001.

7 Q. Okay.

8 A. And the deposit on the back of that
9 check was deposited to my account -- does it say
10 somewhere here where --

11 Q. I don't see a bank's name, but --

12 A. No, but that's deposited to one of my
13 accounts.

14 Q. Okay. And is that \$50,000 in
15 exhibits 17 and 18 -- 16, 17 and 18, is that --

16 MR. BECKERLEGGE: (Indicating.)

17 MR. GENTILE: I'm sorry.

18 Q. The 50,000-dollar figure --

19 A. Consists of what's on page six?

20 Q. Is the 50,000-dollar figure reflected
21 in 16 and 17 consistent with the 50,000-dollar
22 withdrawal from 11/30/2001 that you read off before?

23 A. Yes.

24 Q. It is? Okay. Thank you.

25 Could you skip down to -- on exhibit

1 six, the entry that begins with 11/21/2003?

2 A. If that date, check \$250,000,
3 negative, cash withdrawal.

4 Q. And that's on November 21, 2003; is
5 that correct?

6 A. Yes.

7 Q. Okay.

8 MR. GENTILE: I'm going to introduce
9 another document and ask the court reporter to mark
10 it as exhibit 18 bearing Bates number AMF245385.

11 (Whereupon, document bearing Bates
12 stamp AMF245385, is received and marked as Exhibit
13 18 for Identification.

14 COURT REPORTER: Number 18.

15 MR. GENTILE: Okay.

16 A. That's my letter to Cohmad
17 Securities, dated November 15, 2003. Under Cohmad I
18 would like to redeem \$250,000 from my C&M trading
19 account, and here I ask that the amount be wired to
20 my account at Bank of New York.

21 BY MR. GENTILE:

22 Q. Could you read the account number,
23 your Bank of --

24 A. Account number 6904929954.

25 Q. Okay. And did you sign this letter?

1 A. Yes.

2 Q. Okay.

3 MR. GENTILE: I'm going to introduce
4 another document and ask the court reporter to mark
5 it as exhibit 19 bearing Bates numbers MADWAA222573
6 and 74.

7 (Whereupon, document bearing Bates
8 stamps MADWAA222573 and 574, is received and marked
9 as Exhibit 19 for Identification.

10 COURT REPORTER: Number 19.

11 A. That's a check to me from Bernard
12 Madoff for \$250,000.

13 BY MR. GENTILE:

14 Q. What's the date of the check, sir?

15 A. Dated November 21, 2003.

16 Q. Could you look at the back of the
17 check?

18 A. Right.

19 Q. And read --

20 A. For deposit only by me to my account.

21 Q. Is that your signature on the back of
22 the check?

23 A. Yes.

24 Q. Okay. And then I'm going to ask you
25 to go to the last line on exhibit six beginning with

1 5/22/2008?

2 A. 5/22/2008, check, negative 600,000.

3 Cash withdrawal 600,000.

4 Q. Okay.

5 MR. GENTILE: I'm going to introduce
6 a document. I'm going to ask the court reporter to
7 mark it as exhibit 20 bearing Bates number
8 AMF245375.

9 (Whereupon, document bearing Bates
10 stamp AMF245375, is received and marked as Exhibit
11 20 for Identification.

12 COURT REPORTER: Number 20.

13 A. This is a letter from me to Cohmad
14 Securities on May 13, 2008, asking to redeem
15 \$600,000 from my trading account, signed by me.

16 BY MR. GENTILE:

17 Q. Okay. Thank you.

18 MR. GENTILE: I'm going to introduce
19 another document and I'm going to ask the court
20 reporter to mark as exhibit 21 bearing Bates numbers
21 MADWAA293605 and 06.

22 (Whereupon, document bearing Bates
23 stamps MADWAA293605 and 606, is received and marked
24 as Exhibit 21 for Identification.

25 COURT REPORTER: Number 21.

1 A. This is a check from Bernard Madoff
2 to me, dated May 22, 2008, for \$600,000.

3 BY MR. GENTILE:

4 Q. Okay. And could you look at the flip
5 side of the check?

6 A. And I deposited it to my account. I
7 believe that's the Chase account.

8 Q. Okay.

9 MR. GENTILE: I'm going to introduce
10 a document that I'm going to ask the court reporter
11 to mark as exhibit 22 bearing Bates number Palmedo
12 23.

13 (Whereupon, document bearing Bates
14 stamp Palmedo 23, is received and marked as Exhibit
15 22 for Identification.

16 COURT REPORTER: Number 22.

17 MR. GENTILE: Okay.

18 BY MR. GENTILE:

19 Q. Can you tell me what that document
20 is?

21 A. This is a portfolio management report
22 as of September 30, 2008, and showing a -- my
23 account showing a capital withdrawal of \$600,000.

24 Q. And is this reflective of the
25 activity in your BLMIS account for the year 2008?

1 A. Yes.

2 Q. Okay. And I'm just going to refer
3 you back to exhibit five, which is the Chase Bank
4 statement. And if you could go to page four, it's
5 marked very small at the bottom. It's before --

6 A. Page four.

7 Q. It's before that too.

8 A. Oh, page five.

9 Q. Okay. Could you read the line that's
10 highlighted in yellow?

11 A. Yeah. May 27, deposit of \$600,000.

12 Q. Okay. So looking at these documents,
13 the 600,000-dollar withdrawal from your BLMIS
14 account on May 22, 2008, is that consistent with the
15 line from exhibit six that you read beginning
16 5/22/2008?

17 A. Yes.

18 Q. Okay. Is it accurate to say that you
19 received the \$600,000 in your Chase account?

20 A. Yes.

21 Q. Okay. Thank you.

22 So we're done with this document for
23 now.

24 A. Do you want all these?

25 Q. No, no, we're going to give them to

1 the court reporter.

2 A. This goes in here somewhere.

3 Q. So I just want to ask you a few
4 questions about Cohmad Securities.

5 A. Yeah.

6 Q. And Mr. Cohn.

7 So you testified before that you met
8 Mr. Cohn for the first time when you visited BLMIS;
9 is that correct?

10 A. Yes.

11 Q. Okay. Did you have a relationship
12 with him afterwards?

13 A. No.

14 Q. No?

15 A. No.

16 Q. Okay. Do you remember how many times
17 you interacted with him regarding your account?

18 A. I think pretty much what I had in my
19 records and I provided and we just reviewed. So
20 it's these letters -- exactly -- probably only what
21 is -- we have just talked about, namely when I was
22 making a new investment or withdrawing.

23 Q. Okay. So I'm curious because Cohmad
24 Securities, although they were housed with BLMIS,
25 they were a separate company. I'm just -- if you

1 can help me understand how did you get steered
2 towards Cohmad as opposed to directly towards BLMIS?
3 Was it Mr. Simons who directed you to Cohmad?

4 A. I have no idea.

5 Q. No idea.

6 Was it your understanding that there
7 were two separate companies?

8 A. No.

9 Q. What was your understanding then?

10 A. I -- I -- my understanding was that
11 there was a company that pursued this investment
12 strategy and somehow I was directed to Cohn and I
13 assumed it was one company. I have no idea it
14 was -- I mean, my account had various names that
15 changed over time for some reason.

16 Q. Right.

17 A. But I thought that was just an
18 internal accounting issue.

19 Q. So when you met with Mr. Cohn at
20 BLMIS, were you in his office? Like where were
21 you -- what physical space were you in? Do you
22 remember?

23 A. It was the office on Third Avenue,
24 the Lip Stick Building I think it's called.

25 Q. Sure.

1 A. Right?

2 Q. Yeah, yeah.

3 A. And he did take me to the trading
4 floor in that building.

5 Q. Okay. So in 1993 when you
6 transferred the amount from your C&M account into
7 this Madoff account labeled 1CM142 --

8 A. Right.

9 Q. -- do you know what the circumstances
10 were surrounding that?

11 A. No, I don't. My recollection is,
12 again 20 years later, that that was just done by
13 them as a -- as an accounting transfer.

14 Q. So did it affect the way your account
15 was handled in any way?

16 A. No.

17 Q. Did it affect who your contact was?

18 A. No.

19 Q. Okay. Nothing changed?

20 A. No.

21 Q. Did the face of your statements
22 change?

23 A. I don't recall.

24 Q. So you received monthly statements
25 I'm assuming?

1 A. Was it monthly? I don't recall
2 whether it was monthly or quarterly.

3 Q. Okay. Do you know -- do you have
4 those statements? Do you have possession of those
5 statements?

6 A. Whatever statements I had I provided.

7 Q. Okay. If you remember, do you
8 remember what the statements looked like? Did it
9 have Cohmad Securities on the top of the statement?
10 Did it have --

11 A. We just looked at the statements.
12 These are the statements that I had that --

13 Q. Are those the only statements you
14 received?

15 A. I think so.

16 Q. Okay. So those are yearly
17 statements?

18 A. Well, the one we saw was September.

19 Q. But did --

20 A. It was a 9/30 statement we just
21 looked at.

22 Q. But those statements didn't reflect
23 the activity in your account other than the deposits
24 and withdrawals and the appreciation or
25 depreciation -- well, appreciation of --

1 A. Oh, yeah, I guess I did -- well,
2 there was some accounting firm that I paid money to
3 that provided -- there was some year-end statements
4 that I provided to my accountants.

5 Q. Right.

6 A. And there was also statements from
7 some accounting firm too.

8 Q. So did you receive any statements or
9 any documents from BLMIS or Cohmad that showed you
10 the activity in your account as far as what stocks
11 were being purchased or sold on your behalf?

12 A. I think, yes, I think those were
13 statements that I got at the end of the year that
14 went to my accountant as the basis for my tax
15 filing.

16 Q. Okay. Do you know if -- do you know
17 how Mr. Cohn or Mr. Madoff or anybody handling your
18 account made money from your account? Did you pay
19 commissions to anybody?

20 A. That was sort of a mystery frankly
21 because as I recall that first meeting, there
22 weren't commissions directly charged. So I
23 frankly --

24 Q. Okay. But you said --

25 A. I didn't know. You know, I was

1 getting good returns so that's all I knew.

2 Q. You said for the first year?

3 A. No, when I first went to see, one of
4 the statements that was made by Cohn I guess was
5 that there aren't commissions on -- they were
6 trading fairly frequently and they said that there
7 are no commissions charged.

8 Now, I know they -- I don't know who
9 they -- and when I say they, this whole conglomerate
10 there, all right, they were making markets. So I
11 didn't know how they made money.

12 Q. Okay.

13 A. Unless through volume trading that
14 they participated in with their accounts they could
15 make money. I just knew they were making money for
16 me.

17 Q. Did you have any other conversations
18 with Mr. Cohn after that initial meeting or was all
19 of your communications by e-mail or letter or --

20 A. Yeah, it was -- I don't think so.
21 This is prior to e-mail, right. There was just
22 these -- as I say, it was letters where I was making
23 a new investment or withdrawing money.

24 Q. Okay. So the only actual
25 conversation you had with Mr. Cohn was on that

1 initial meeting at BLMIS?

2 A. I believe so.

3 Q. Okay.

4 MR. GENTILE: I'm just going to
5 introduce another document. I'm going to introduce
6 a document that I'm going to ask the court reporter
7 to mark as exhibit 23 bearing Bates number Palmedo
8 17.

9 (Whereupon, document bearing Bates
10 stamp Palmedo 17, is received and marked as Exhibit
11 23 for Identification.

12 COURT REPORTER: Number 23.

13 BY MR. GENTILE:

14 Q. Do you recognize this?

15 A. Yes.

16 Q. Okay. I just want to ask you a
17 couple of questions about the contents of it. So in
18 the first paragraph -- well, first of all, who is it
19 signed by?

20 A. Maurice Cohn.

21 Q. Okay. And the date of the letter?

22 A. October 23, '91.

23 Q. And who is it addressed to?

24 A. Dear C&M investor.

25 Q. Okay. In this letter, Mr. Cohn seems

1 to basically summarize the activity of the accounts
2 under his management, and I would assume he's
3 directing this -- the comments here towards your
4 account?

5 A. Right.

6 Q. Okay. So he says in the first
7 paragraph: As we move into the final quarter of
8 1991, we are pleased to report that all of the
9 accounts are pretty much on target. And on target
10 is in parentheses -- I'm sorry, in quotes.

11 Did he ever discuss with you like
12 what their target was?

13 A. I don't recall. In my mind, I had --
14 whether it came from him or from -- there was an
15 article, in my mind there was a 10 percent return
16 objective.

17 Q. And where did you get that?

18 A. I don't know.

19 Q. You don't know.

20 Well, if you'd only spoken to anyone
21 at BLMIS that one time when you visited, would it
22 have been during that visit?

23 A. It could have been.

24 Q. Okay.

25 A. There was also a magazine article

1 that Jim Simons showed me in the initial discussions
2 about Madoff. It may have been in there.

3 Q. Okay.

4 A. But I don't know.

5 Q. How involved were you or are you in
6 your investments? I mean, are you -- do you hire
7 somebody to take care of it for you or do you get
8 involved and track everything and try and verify and
9 reconcile accounts?

10 A. I used to be actively involved on my
11 own account at Fidelity, for example, but I've been
12 trying to get away from all of this stuff.

13 Q. Okay.

14 A. And write about art.

15 Q. Okay. So I'm just going to introduce
16 another document.

17 MR. GENTILE: I'm going to introduce
18 a document that I'm going to ask the court reporter
19 to mark as exhibit 24 bearing Bates number Palmedo
20 15.

21 (Whereupon, document bearing Bates
22 stamp Palmedo 15, is received and marked as Exhibit
23 24 for Identification.

24 COURT REPORTER: Number 15.

25 MR. GENTILE: Okay.

1 BY MR. GENTILE:

2 Q. Can you tell me what that is?

3 A. This is a trading account statement
4 of January 1993, portfolio management report.

5 Q. Okay.

6 A. As of December 31, '92.

7 Q. Can you tell me what is the account
8 number?

9 A. Account number 19, parentheses,
10 1C0019, parentheses.

11 Q. Okay. So I'm going to direct your
12 attention back to exhibit six for a minute.

13 A. I don't have it. I gave you that.
14 Is six --

15 Q. It's the big sheet, yes.
16 So does -- on the very first entry of
17 January 4, 1993, trans from?

18 A. Right.

19 Q. Is that the same account as what's
20 reflected on exhibit 24?

21 A. No.

22 Q. Okay. Can you read the account
23 number on --

24 A. The account number on exhibit 24 is
25 this?

1 Q. Yes.

2 A. The account number 1C0019. This
3 says: Account transfer from 1C001930.

4 Q. Okay. That's fine.

5 So I just want to direct you to the
6 handwritten notes on exhibit 24 towards the bottom.

7 A. Right.

8 Q. Is that your handwriting?

9 A. Yes.

10 Q. Okay. Can you tell me what that
11 says?

12 A. That says: 7 percent in a quarter,
13 20 percent in a year.

14 Q. Okay. Can you tell me what that
15 means?

16 A. That's probably the return.

17 Q. Okay.

18 A. And I have -- I have no idea whether
19 this is my analysis of Madoff or whether I'm on the
20 phone with someone and I had to write something
21 down.

22 Q. Okay. So you had no idea whether or
23 not it reflects the returns on this account or
24 whether it was just notations regarding --

25 A. It probably reflects a return on this

1 account, but I don't know. I sometimes write things
2 down if I'm on the phone on whatever piece of paper
3 that's in front of me, you know.

4 Q. Okay.

5 A. But I think that probably applies to
6 this account.

7 Q. Okay. Thank you.

8 Do you ever remember noting any
9 discrepancies in the documents that Madoff, Bernard
10 L. Madoff Investment Securities sent you or what
11 Cohmad Securities sent you regarding your account?
12 Did you ever note? No?

13 A. No.

14 Q. Did you ever send any other documents
15 to BLMIS other than your request for withdrawals or
16 your notifications of additional deposits?

17 A. I don't think so.

18 Q. No? Okay.

19 So we'll go to answer.

20 MR. GENTILE: I'm going to introduce
21 the answer to the trustee's complaint that you and
22 your counsel provided.

23 I'm going to ask the court reporter
24 to mark it as exhibit 25.

25 (Whereupon, Answer to Trustee's

1 Complaint, is received and marked as Exhibit 25 for
2 Identification.

3 COURT REPORTER: Number 25.

4 BY MR. GENTILE:

5 Q. I'm going to direct your attention to
6 page 20, paragraph 20.

7 A. Paragraph 20?

8 Q. Page 20 too.

9 A. Oh, page 20. Right.

10 Q. Okay. So can you read paragraph 20?

11 A. The trustee has fraudulently
12 calculated defendant's liability by charging
13 defendant with withdrawals that the trustee has no
14 proof were taken.

15 Q. So after going through all of the
16 withdrawals listed on exhibit six in the documents
17 that we provided in connection with those
18 withdrawals, are you able to identify any
19 withdrawals from which the trustee has no proof?

20 A. Right now? Or as of the date of
21 this?

22 Q. Either.

23 A. You have -- you have proof of
24 withdrawals because I gave them to you.

25 Q. Okay. Can you turn to page 22,

1 paragraph 37. Can you read that off, please?

2 A. The withdrawals that the trustee
3 seeks to recover were legally compelled under state
4 and federal securities laws.

5 Q. Can you tell me what laws compelled
6 you to withdraw money from the --

7 A. I have no idea.

8 Q. Okay. If you can go to page 23?

9 A. 23?

10 Q. Yes, paragraph 46?

11 A. Yeah.

12 Q. If you could read that paragraph.

13 A. The trustees claims are barred in
14 whole or part for failure to properly credit
15 defendant with all of the defendant's deposits.

16 Q. Can you identify any deposits that
17 you made for which the trustee didn't credit you?

18 A. I really -- this is a legal -- this
19 is -- we're in a legal document here and I just stay
20 away from legalities so.

21 Q. Well, I'm just going to ask you to
22 make the general inquiry, are you aware of any
23 deposits that you weren't credited with on exhibit
24 six?

25 A. No.

1 Q. Okay. And I'm going to ask you to go
2 back to 21.

3 A. Paragraph 21?

4 Q. No, page 21, paragraph 27.

5 A. Page 21, paragraph 27.

6 Q. Okay. I'll read it off.

7 A. The trustees -- 27?

8 Q. Yes.

9 A. The trustee's claims are barred in
10 whole or part for failure to properly credit -- the
11 trustee's claims are barred in whole or part for
12 failure to properly credit interaccount transfers,
13 profit withdrawals and other adjustments.

14 MR. GENTILE: Interaccount transfers.

15 A. Interaccount transfers.

16 Q. Right.

17 So I'm going to point your attention
18 to the section that deals with profit withdrawals.
19 Can you identify any of the withdrawals that you
20 made that were profit withdrawals?

21 A. No.

22 Q. Okay.

23 A. I don't know. I -- these weren't --
24 these weren't segregated; right? I don't know what
25 capital and profit, is not distinguished.

1 Q. Okay. I'm going to ask you to go to
2 page 19 now. And I'll read off paragraph --

3 A. Okay. Because you're better.

4 Q. Paragraph 16. No, that's -- the
5 defendant is entitled to setoff recoupment and/or
6 equitable adjustment because each year defendant was
7 required to pay taxes on the fictitious profits
8 reported on, among other things, IRS form 1099 and
9 other information reported by BLMIS or Madoff to the
10 Internal Revenue Service. State and/or local
11 governmental taxing authorities.

12 Can you tell me how much you were
13 required to pay in taxes each year because of the
14 fictitious --

15 A. My accountant calculated that out,
16 but I don't recall at all. I provided you with
17 that. That's a terrible paragraph, by the way.
18 It's not English. The defendant is entitled to set
19 off -- entitled to recoupment and then you have this
20 quote after profits. Where does that quote start?

21 Q. This is prepared by your counsel.

22 A. I know, but, you know, I can't
23 comment on something that's poorly written to begin
24 with.

25 Q. All right. You mentioned that you

1 have an accountant?

2 A. I have an accountant, yes.

3 Q. Okay. Did you have -- is this the --
4 did you have an accountant while you maintained your
5 BLMIS account?

6 A. Yes.

7 Q. This is the same accountant?

8 A. Same firm.

9 Q. Same firm.

10 Okay. Who was the accountant that
11 you retained during the life of your BLMIS account?
12 Do you know?

13 A. It's -- it used to be called Sini &
14 Reeves. It's now called Albanese Sini & Reeves.

15 Q. Okay. Did your accountant prepare
16 your taxes for you?

17 A. Yes.

18 Q. Does he still prepare your taxes?

19 A. Yes.

20 Q. Okay. Did you --

21 A. I'm -- again, I don't know whether in
22 1991 that same accountant firm prepared my taxes.
23 At least for the past 10 years they have been doing
24 it.

25 Q. Okay. Did you provide the trustee

1 with all of your tax returns?

2 A. I provided -- I provided counsel with
3 as many as I could find.

4 Q. As many --

5 A. I generally figure, and you tell me
6 whether it's -- I don't need to save things more
7 than 10 years so. I don't have a lot of space. I
8 get rid of stuff, but I found quite a few tax
9 returns to provide.

10 Q. And you provided them to your
11 counsel?

12 A. I provided them to the accountant and
13 in recent years they have electronic records.

14 Q. Did you turn those -- did you provide
15 those tax returns to counsel as well?

16 A. I frankly don't know whether I
17 provided them to the accountants or to counsel.

18 Q. Okay. Did you confer with your
19 accountant before for your deposition today?

20 A. Yes, months ago.

21 Q. In preparation for the deposition or
22 just --

23 A. No, no, no.

24 Q. -- in general?

25 A. But that was before the deposition.

1 Q. Well, I meant in reference to the
2 deposition.

3 A. No, no, no, no.

4 Q. Okay.

5 A. Because I said, I haven't discussed
6 the deposition with anybody.

7 Q. Okay. Have you retained an expert in
8 this case?

9 A. Chaitman. What do you mean?

10 Q. Have you retained an expert to work
11 on your behalf in this case?

12 A. No, no.

13 Q. No?

14 A. No, other than my counsel.

15 Q. Okay. Has your counsel retained an
16 expert in the case?

17 A. I have no idea.

18 Q. You have no idea. Okay.

19 Who is the gentleman that prepares
20 your taxes now or woman? I'm sorry. I don't mean
21 to be --

22 A. Tammy Wellman.

23 Q. Is your tax preparer?

24 A. Yes.

25 Q. Okay. Who is Steven Albanese?

1 A. He is the head of the firm.

2 Q. He's the head of the firm. Did he
3 ever prepare your taxes?

4 A. No.

5 Q. Okay.

6 All right. So we'll go to -- three.
7 We're almost done.

8 A. Really?

9 Q. Yeah.

10 MR. GENTILE: So I'm going to
11 introduce a document that I'm going to ask the court
12 reporter to mark as exhibit 26. They're the
13 defendants' responses and objections to the
14 trustee's first set of interrogatories.

15 (Whereupon, Defendants' Responses and
16 Objections to Trustee's First Set of
17 Interrogatories, is received and marked as Exhibit
18 26 for Identification.

19 COURT REPORTER: Number 26.

20 MR. GENTILE: Okay.

21 BY MR. GENTILE:

22 Q. So if you just look to the page seven
23 where it's dated and signed. Page seven.

24 A. Oh, page seven. Signed on some page
25 which is labeled one actually.

1 Q. No, the page before that one. Yeah,
2 that's page seven. Could you just read off the
3 date, it's dated?

4 A. The date?

5 Q. Yeah, at the bottom.

6 A. July 28, 2016.

7 Q. Okay. Had you seen this document
8 before July 28, 2016?

9 A. It looks like documents I've seen. I
10 mean, and I signed it, so I must have seen it.

11 Q. Did you assist in the preparation of
12 this document?

13 A. Assist in the preparation? No, other
14 than reviewing it and signing it.

15 Q. Okay. Did you take any steps to
16 confirm that the responses were accurate?

17 A. I remember talking to Helen about
18 some statements and trying to understand them and to
19 that extent, yes.

20 Q. Okay. So I'm going to direct you
21 to -- so interrogatory responses two, eight, and
22 12A. Okay. Well, okay. I'm sorry. Let's go to
23 two. It's on page four.

24 A. Yeah.

25 Q. Okay. And the response from you and

1 your counsel is that: The responding party is
2 unable to identify the reasons for each transfer,
3 except to the extent that withdrawals were taken to
4 pay applicable taxes on the reported short-term
5 capital gains in the account and for the responding
6 party support.

7 Response to interrogatory eight,
8 which asked: To the extent not already provided in
9 your responses to the preceding interrogatories,
10 state how you used any money you received from the
11 transfers, and your response is that: Responding
12 party paid both state and federal taxes based on a
13 short -- based on short-term capital gains rates on
14 the reported fictitious appreciation in the account.
15 The balance of the funds were used for the
16 responding party's support.

17 And then finally at 12A, the
18 interrogatory is for each denial of a material
19 allegation and each affirmative defense in your
20 answer to the complaint: State all facts upon which
21 you base the denial or affirmative defense, and your
22 response to that is: The defense concerning payment
23 of capital gains taxes is based upon responding
24 party's testimony as to the payment of taxes at the
25 applicable tax rates for each year of the account

1 and the reported income as reflected in Madoff's
2 statements which are in the trustee's possession.

3 So do you have records of the
4 capital -- of the payments that you made to the
5 government on the capital gains?

6 A. Yeah, in the tax -- my tax returns.

7 Q. In your tax returns? Okay. The
8 returns that you provided to either counsel or --

9 A. Right.

10 Q. -- your accountant?

11 A. Right.

12 Q. Okay. So in the last response, your
13 reference to the responding party's testimony, what
14 testimony is that response based on?

15 A. Where is that?

16 Q. That's on page seven.

17 A. Yeah.

18 Q. Subparagraph little A.

19 A. I don't know. I guess that refers to
20 some previous part of this thing. I don't know.

21 Q. Okay.

22 A. Unless I was asked whether I pay
23 taxes and I said, yes, I pay taxes on this year
24 after year.

25 Q. Okay. But you didn't provide

1 testimony in a formal proceeding?

2 A. No, no.

3 Q. Okay.

4 A. No session like this.

5 Q. Okay. The applicable tax rate for
6 each year you paid taxes on behalf of your BLMIS
7 account, would you happen to know that information
8 offhand or is that contained in your tax returns?

9 A. Yeah, I'm a fairly high bracket so
10 and my accountant estimated those rates.

11 Q. Okay. So I'm just going to go to
12 page six and your response to interrogatory number
13 nine which says: Responding party admits the
14 deposits and withdrawals reflected on exhibit B to
15 the complaint for the period from December 11, 2006
16 to December 11, 2008. The trustee has no right to
17 any bank information covering this period of time.

18 So I'm going to direct your attention
19 to the reference to exhibit B to the complaint which
20 is marked here as exhibit six in this deposition.
21 You're admitting to the deposits and withdrawals for
22 the period from 2006 to 2008.

23 Is there any reason that you -- that
24 the transfers before -- that you would not admit to
25 the transfers, the withdrawals and deposits before

1 2006?

2 A. No. I -- I admitted to the accuracy
3 of the statement.

4 Q. Okay. To the accuracy of exhibit
5 six?

6 A. Of exhibit six.

7 Q. Okay.

8 MR. GENTILE: I'm done.

9 MS. ALLIM: Okay.

10 MR. GENTILE: Yeah.

11 THE VIDEOGRAPHER: This ends the
12 deposition of Philip F. Palmedo. The time is 1:10
13 p.m. We're going off the record.

14 (Time noted: 1:10 p.m.)

15

16

PHILIP F. PALMEDO, Ph.D.

17

18 Subscribed and sworn to before me

19 this _____ day of _____ 2017.

20

21

22 Notary Public
23 My Commission Expires:

24 /

25 /

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3 COUNTY OF MIDDLESEX)
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1 C E R T I F I C A T E

2 STATE OF NEW JERSEY)
) :ss.
3 COUNTY OF MIDDLESEX)

4 I, RICH GERMOSEN, a New Jersey
5 Certified Court Reporter, New Jersey Certified
6 Realtime Court Reporter, California Certified
7 Realtime Reporter, NCRA Certified Realtime Reporter
8 and NCRA Registered Merit Reporter, do hereby
9 certify:


10 That PHILIP F. PALMEDO, Ph.D., the
11 witness whose deposition is hereinbefore set forth,
12 having been duly sworn, and that such deposition is
13 a true record of the testimony of said witness.

14 I further certify that I am not related
15 to any of the parties to this action by blood or
16 marriage, and that I am in no way interested in the
17 outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto set
19 my hand this 26th day of June 2017.

20

21



22 RICH GERMOSEN, CCR/CRCR/CRR/RMR/CCRR/NYACR/NYRCR
23 LICENSE NO. 30XI00184700
24 LICENSE NO. 30XR00016800
25 California CRR No. 198

24

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